

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CLAUDIA R.D. CLAVETTE,

Plaintiff,

v.

SKAMANIA COUNTY SHERIFF, et al.,

Defendants.

No. 12-cv-6027 RBL

Order

[Dkts. #1, 2]

I. INTRODUCTION

Before the Court is Plaintiff Claudia Clavette's application to proceed *in forma pauperis*. [Dkt. #1] and application for appointment of counsel [Dkt. #2]. For the reasons set forth below, the Court denies the applications.

II. DISCUSSION

A. Application to Proceed *In Forma Pauperis*.

A district court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). The court has broad discretion in resolving the application, but "the privilege of proceeding *in forma pauperis* in civil actions for damages should be sparingly granted." *Weller v. Dickson*, 314 F.2d 598, 600 (9th Cir. 1963), *cert. denied* 375 U.S. 845 (1963). Moreover, a court should "deny leave to proceed

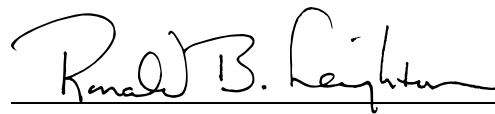
1 *in forma pauperis* at the outset if it appears from the face of the proposed complaint that the
2 action is frivolous or without merit.” *Tripathi v. First Nat’l Bank & Trust*, 821 F.2d 1368, 1369
3 (9th Cir. 1987) (citations omitted); *see also* 28 U.S.C. § 1915(e)(2)(B)(i). An *in forma pauperis*
4 complaint is frivolous if “it ha[s] no arguable substance in law or fact.” *Id.* (citing *Rizzo v.*
5 *Dawson*, 778 F.2d 527, 529 (9th Cir. 1985); *Franklin v. Murphy*, 745 F.2d 1221, 1228 (9th Cir.
6 1984).

7 Here, the Court must deny Plaintiff’s application because Plaintiff appears to be legally
8 barred. Plaintiff already brought a suit, later dismissed, arising under these facts. Under *res*
9 *judicata*, “a final judgment on the merits of an action precludes the parties or their privies from
10 relitigating issues that were or could have been raised in that action.” *Allen v. McCurry*, 449
11 U.S. 90, 94 (1980). The claim is thus barred.

12 III. ORDER

13 For the reasons stated above, the Court **DENIES** the application to proceed *in forma*
14 *pauperis* [Dkt. #1] and the application to appoint counsel [Dkt. #2]. Plaintiff has **15 days** to pay
15 the filing fees or the case may be dismissed.

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17 Dated this 11th day of January 2013.

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24 Ronald B. Leighton
25 United States District Judge
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